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AUTHOR Haney, Gerald L.
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ABSTRACT

Due process, legal rights, invasion of privacy, right-to-decide, majorities, minorities, pressure groups, individual egos, domain building, selfishness, ignorance, and incompetency are only a few of the considerations facing educators today. School boards, administrators, teachers, support-personnel, and others who come in contact with student populations are faced with a mass of confusion in decision-making in matters dealing with teaching, discipline, control, safety records, and many other concerns that might cause misunderstanding and/or legal complications. This article discusses the many and varied ethical and legal ramifications implicit in student relationships. (Author/HMV)

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Student Relationships Ethical and Legal Implications

GERALD L. HANEY, SPECIALIST

GUIDANCE & PUPIL PERSONNEL SERVICES

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STUDENT RELATIONSHIPS
ETHICAL AND LEGAL IMPLICATIONS

INTRODUCTION

Individual rights and the tender relationship of Educators and Learners are the source of much uncertainty in the world of education today.

Due process, legal rights, invasion of privacy, right-to-decide, majorities, minorities, pressure groups, individual egos, domain building, selfishness, ignorance, and incompetency are only a few of the considerations facing educators today. School boards, administrators, teachers, support-personnel, and others who come in contact with our student population are faced with a mass of confusion in decision-making, in matters dealing with teaching, discipline, control, safety, records, and many other concerns that might end in misunderstanding and even being hauled into court to answer charges. Many of these fears are well grounded, if a person is doing something illegal or detrimental to an individual or a group. Anyone can be sued! It is costly even to go through a trial to prove your innocence. Historically, members of the helping professions for children have been dealt with most favorably by our courts in fulfilling ethical requirements to students and patrons. Respect for Law is still our only hope for an orderly and democratic society.

Personal relationships take place in a wide variety of settings for today's educators. Patron-school board, administrator-professional staff, administrator-non-professional staff, administrator-

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student, administrator-specialist, teacher-student, district-organizations, district-vested interest groups, are some of the relationships that involve people in an educational setting. When you have inter-personal relationships, you face ego structures, power bases, selfishness, behaviorial incompatibility or personality conflicts, need satisfactions, and other physical and psychological conflicts.

In these personal relationships there is opportunity for legal infringement. How can school personnel know how to conduct themselves and what course to follow in the process?

It is not my capability or authority to give legal advice. This is the realm of our legal profession and I would encourage anyone to utilize a lawyer to clear up problems of legal nature in working with the local situation.

HUMANISTIC RELATIONSHIPS

In any relationship between people of concern, feeling, education, and common sense it is reasonable to expect that relationship to take on the characteristic of humane treatment one to another.

Humanistic relationship is a situation where there is a trust relationship, trust and faith existing between people. This kind of a relationship promotes confidence and engenders a condition that enhances communication. Confidence, faith, and trust are common denominators for the development of human relationship that will dispel the condition of concern that brings about misunderstanding and the climate for ingringement on human dignity.

When people do not have a proper humanistic relationship the condition is ripe for misunderstanding, fear, and personal protection that sometimes evolve into litigation.

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Prevention is still the best process, better than trying to heal, for there are always scars left in the healing process of broken relations.

Educators should be the most capable in developing, nurturing, and being the practical example of humanistic concern and practice. One mark of a mature person can be the giving and receiving of understanding and respect.

There are too many educators who are setting up programs and procedures to meet their own needs and expediency, rather than basing their decisions, programs, procedures, and actions on the needs of the students. When we say we care about you by what we do, as well as what we say, people listen. Our young people need meaningful relationships in a true attitude of confidence in order to meet their own personal needs.

The de-humanizing effect of some methods of discipline, and in some cases punishment, destroy or break children so they can hardly become whole adults. It is most destructive to have a person's faith questioned and lost.

A positive glow of learning and search for knowledge needs to be nurtured and come to fulfillment. This can come about with the educational construct based upon humanistic relationships. This can be a large part of the preventive application to deter legal involvement and punitive outcomes.

ETHICAL RELATIONSHIPS

When the term "ethics" comes to mind, we generally think of professional enforcement. Members of professions, such as the

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medical and legal profession, have ethical standards. If these ethics are violated a person in violation may have to answer to the profession. In case of conviction you forfeit the right to function in that profession. The medical and legal professions are the two most noted for their enforcement policies.

Professional educators have not yet arrived at the point of self-discipline that characterizes the medical or law profession.

There are associations and members within the education profession that have well defined codes of ethics. The counselors who are members of the American Personnel and Guidance Association are good examples.

Codes of behavior adopted and enforced by APGA reinforces the treatment of students in a professional and ethical manner. We, as educators, are concerned with the learning, developing, and change of an individual at a time in his life when there are opportunities for many problems. Personal data, feelings, and facts of a personal and sensitive nature are going to be exchanged. The care of these facts, concerns, and decisions bear heavily on the personal and professional integrity of the receiver. Violations of these relationships and data cannot only destroy rapport and development of an individual, but lay open the possibility of legal action in the violation of individual rights.

LEGAL IMPLICATIONS

An illegal act or process may take place, and continue to take place in subsequent cases, until it is challenged and acted on by a court.

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Many of our traditional practises have been challenged and legal opinions and judgments by the courts have been made. Dress codes, hair styles, pregnancy policies, access to records, mailing lists, and testing policies are only a few of the areas touched, and in some cases changed by the courts, in a variety of communities across the land.

The legal implications of such changes to school personnel and student relationships are complex and sensitive. There are no prescribed practises or procedures that will take care of all instances of concern. Some basic changes in procedures in philosophy and implimentation can reduce areas of conflict.

One basic philosophy that provides structure for stability is the consideration of the students' needs being the foundation for all administrative decisions. With the decisions made on the needs of students, legal involvement will be less likely. Administrators, teachers, non-certified personnel, patrons, and school boards have a common denominator in concern and care for the student that should alleviate irritations and discord and bind decisions made into fibers of progress and accomplishment for student, school, and community.

The importance of policies being developed, structured, and evaluated by all people being affected by them is an important consideration. In the absence of policies, liability and responsibility may fall upon a single individual.

The policies of specific concern in the student relationship is due process, release of information, informed consent,

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handling records, confidentiality, disciplinary actions, right to privacy, and the communication process to students, patrons, and staff. A positive productive attitude in conjunction with legal conformity should create a comfortable situation in which to work for opportunity in progress for the young people in our school systems.

Some of the basic principles in being protected by the law such as confidentiality, right to privacy, and due process, need to be understood by all staff members and not left to the chief school administrator and the school board lawyer. This area of communication has been neglected in many of our pre-school institutes and in the in-service training of many of our school districts.

Usually information on opportunities for legal difficulty occur and is supplied only after traumatic situations have developed or happened.

The ability of our boards of education, administration, and staff to act in a professional way will alleviate many legally sensitive areas of concern; but a professional handling of sensitive areas can come only when relative information is researched, developed and disseminated in programs established for that purpose.

One basic tenet in the involvement of legal concerns is that "truth" is always the best defense against allegations of misconduct and legal liability. One exception is in the area of "right to privacy" which will be discussed later in this paper.

"The Prudent Man Principle" needs to be understood by our school people as they perform their duties as professional educators. This principle means that we are held responsible and

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liable for actions to be those that would coincide with the actions of a "prudent" or wise man with common sense. What would be expected of a professional person with the training and maturity that you have? This is the type of behavior that you would expect to be accountable. According to Blacks Law Dictionary the definition would be, "Sagacious in adapting means to end, circumspect in action, or in determining any line of conduct, practically wise, judicious, careful, discreet, circumspect, sensible."

In answering charges before a court there are two kinds of action--civil and criminal. There are also damages that may be assessed by a court. There are many kinds of damages that can be found for various actions. Blacks Law Dictionary lists 34 kinds of damages. Damages are defined as: A pecuniary compensation or indemnity, which may be recovered in the courts by any person who has suffered loss, detriment, or injury, whether to his person, property, or rights, through the unlawful act or omission or negligence of another. This definition covers punitive damages.

In establishing policies for a school district or in an in-service program, some or all the following points may be considered:

Criminal Libel - The malicious defamation of a person, made public by any printing, writing, sign, picture, representation by effigy, tending to provoke him to wrath or expose him to public hatred, contempt, or ridicule or to deprive him of the benefits of public confidence and social intercourse, or any malicious defamation made public as aforesaid designed to blacken the memory

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of one who is dead and tending to scandalize or provoke his surviving relatives and friends. The key word in this definition is "malicious" or in general for an evil purpose. It is good to keep in mind that truth is the best defense to criminal libel.

Civil Libel and Slander - The civil side of criminal libel. Civil libel also requires a showing of "maliciousness." Libel is the written word and slander is the spoken word.

Libelous Per Quad - Expressions "libelous per quad" are such as require that their injurious character or effect be established by allegation and proof.

Libelous Per Se - A publication is "libelous per se" when the words are of such character that an action may be brought upon them without the necessity of showing any special damage, the imputation being such that the law will presume that anyone so slandered must have suffered damage.

Invasion of Privacy - The right to be left along. Truth is no defense to this type of action. The law in the field of "right of privacy" is said to protect the person of ordinary sensibilities and not the over-sensitive.

a. Intrusion - Instances of actual penetration into the privacy of the home, wire tap, microphones, making unwanted calls, peeking through windows.

b. Public disclosure of private facts - exposing a reformed prostitute, publically exposing one who is in debt.

c. False light in the public eye - use of one's name or picture in connection with something he does not espouse, placing one's picture in a rogues gallery.

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d. Appropriation - Using one's picture, name, not in a false light situation, but for commercial purpose without consent. Public information may be published and no thought of prosecution such as marriages, divorces, accidents, etc.

Tort - a private or civil wrong or injury.

Mal-practise - any professional misconduct, unreasonable lack of skill or fidelity in professional or fiduciary duties, evil practise, or illegal or immoral conduct.

Unqualified Analysis - This area of concern is when a diagnosis or determination is made by someone not qualified by credentials, law, or expertise to make such diagnosis or determination. Branding a person as psychotic or having a physical disease when not a licensed psychologist or physician. The trait rating evaluations on some school records that call for psychological determination by teachers and administrators not qualified to make such determinates.

Student Records - This area of concern is one of great importance. National conferences and special reports have come as a result of this importance. The Russell Sage Foundation Report of a conference held at Sterling Forest, N. Y., May 25-28, 1969, and the National Association of Secondary School Principals Report, "A Legal Memorandum", September 1, 1971, are two of the important works on this subject. What are records? How are they maintained? How is information dispensed? What are the safeguards to protect the individual student? These are only a few of the pertinent questions that may be asked to aid in establishing policies for protection and efficient operation of our schools today.

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Records - A written account of some act, transaction, or instrument, drawn up under authority of law, or policy, or regulation, by a proper officer, and designed to remain as a memorial of permanent evidence of the matters to which it relates. A memorandum, public or private, of what has been done, ordinarily applied to public records only, in which sense it is a written memorial made by a public official.

The public officers usually recognized in a local school district are the chief school officer and the school board.

Public Records - A record, memorial of some act or transaction, written evidence of something done, or document, considered as either notice or information to the public, or open to public inspection. In Common Law the criteria for public records are:

1. The records are under care of a public offial.
2. The records are authorized by Law.
3. The records are accurate and durable.
4. The records are written memorials.

In general, public records are open to anyone with a need to know. The records required to be kept by school officials need to be examined to see what needs to be included and become a part of the public record.

There has been a general consensus of opinion that records should be divided into at least three categories, one being the basic area that meets the general area of Public Records. The second area is that information recorded as Psychological Data.

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These records in general contain all data that might require some type of interpretation. Test scores, profiles, and types of health records and third-party information are some of the data in this category. The location for the repository of these records has been suggested as the counselor's files.

The third area of records is that of disciplinary records. Actions and content of these types of records should remain in the principal's or vice-principal's office.

A policy for handling, using, and storing of these records, and also a policy to whom appropriate information may be released and a policy for the release would give unity to administration and staff and reduce the possibility for legal infringement of individual rights. The advent of computers and instant retrieval of masses of information brings out many fears and possibility of "invasion of privacy" over this bank of information. Safeguards need to be implimented to insure security over these records.

An examination of the type and use of records in each district needs to be instituted and an evaluation made to be sure no violations, legal or professional, of the right of individuals are taking place.

The traditional cumulative folder can be the source of irritation and possible legal violations. Labeling of children as a result of information contained in these folders can take place. The trait ratings in some folders have already been mentioned. A look at what records are necessary and a periodic examination and removal of harmful data is a positive action in the use of this type of record. Some authorities advocate a complete removal of

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of data at the end of the primary grades, middle grades, and junior high intervals, at least all data that is not legally required to be kept. Education is a process of change. Any records kept should be those necessary to assist that change. The best interest of the child in his developing and formative years should be the basic consideration.

More in-service training in use of, and wise sharing of information in a professional manner by staff and administration is desirable.

Some general areas of concern with emphasis on some specialists, such as counselors, need to be considered at a greater depth.

As terms such as confidentiality emerge in the world of education, different degrees of concern as to responsibility and depth of involvement also emerge. The ability to fulfill a trust relationship and maintain confidences is a quality needed by all educators in my opinion.

Confidentiality - according to Common Law there has to be four conditions that must be met before confidentiality is secure. They are:

1. The communication originiates with the understanding that it will not be disclosed.

2. Confidentiality must be maintained for continuance of the relationship between the parties.

3. Confidentiality must be fostered with care and perserverence.

4. The harm to the relationships would be greater than the good incurred in the litigation.

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Professions such as counselors' organization have "Ethical codes" that require confidentiality in their relationships. Some professions have relationships that involve legal privilege such as lawyer-client, physician-patient, minister priest-penitent, husband-wife relationships. Except for a few states this legal privilege does not extend to counselors or educators.

Confidential information does not have to be disclosed to any one except in court and under the direction of a judge. Information does not have to be released to a police officer, a lawyer, or anyone else trying to get confidential information.

Some judges have respected the ethical responsibility of counselors when they have been notified of the Ethical Standards of APGA section B. One counselor in western Kansas had her lawyer notify the judge of this professional ethical standard requirement when she was served a subpoena to testify. The judge allowed only three questions of a non-personal nature to be asked and then excused the counselor from the witness stand.

Some judges have heard information that involves confidential relationships in chambers, and others have cleared the courtroom for some specific testimony involving confidential information.

Privileged Communication - a communication made to counsel, solicitor, and which he is not permitted to divulge; otherwise called a "Confidential Communication."

Any records of "note" even though they might not be public records are subject to subpoena. A subpoena is a court order to produce information; material, or person to a court of law.

It is not desirable, in my opinion, to have "legal privilege" granted to counselors for several reasons. It is questionable that

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the expertise of counselors across the land is at a level high enough or the degree of acceptance of privilege full enough to keep a substantial number of counselors out of trouble from violating this privilege.

If privilege for counselors and client relationships were enforced, the counselor would be bound to go against the ethical responsibility to refer when the limits of his capability to assist the client has been reached, or the welfare of the client is to be considered.

In some states you would have one law in conflict with another such as the "child abuse law" in Kansas that requires anyone working with children to report the abuse under penalty of law if you do not. In counseling with a child and child abuse were made known you would legally have to report it.

If privilege were granted, a release for all information gained would have to be obtained for group work, referrals, teacher conferences, case study development and use, and any other instance that would require use of information to assist the client. Who would grant the release of privilege--the student? his parent? which one, if divorced? Who for wards of the court? What if the student is married and under the age of majority? These are only a few of the questions and problems that would have to be answered. It would take a staff of lawyers to keep the administrators, school boards and staffs out of hot water and legal responsibility.

The counselor's and all educators' ethical and professional, and I hope humanistic, concern is to help the client even at the

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cost of severing the relationship to help for the good of the client. Legal rules are established for a purpose but it is hoped that relationships in education would not have to be governed at that level. The ethical and humanistic relationships between educators and learners are the stuff that establish and endure beyond control and enforcement to motivation, achievement and a fulfilled life in our world today and for tomorrow.

Umbrella of Privilege - If a counselor is working with a client in a very sensitive area of possible legal involvement and feels there is a need for "legal privilege", it may be possible to move to become an agent of the client's lawyer and come under the lawyer's umbrella of privilege. It might be noted that by and large across the country, courts have respected the ethical responsibility of counselors and confidential communications.

In the consideration for establishing policies of operation of school districts there are some safety valves of protection for schools and personnel in transferring responsibility for release of information to the courts from the schools.

Subpoena Duces Tecum - A process by which the court, at the instance of a suitor, commands a witness who has in his possession or control some document or paper that is pertinent to the issues of a pending controversy, to produce it at the trial.

A school may want to resort to this kind of protection for certain kinds of information requests.

Mandamus - This is the name of a writ which issues from a court of superior jurisdiction, and is directed to a private or municipal corporation, or any of its officers, or to an executive, administrative or judicial officer, or to an inferior court, commanding

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the performance of a particular act therein specified, and belonging to his or their public, official, or ministerial duty, or directing ths restoration of the complainant to rights or privileges of which he has been illegally deprived.

This means you can require of an individual or group a "court order" to produce records required or sought by him, laying responsibility for release of records to the courts. Generally, it seems, the courts are reluctant to interfere with duly authorized administrative function. A school district operating under policies that are well thought out, legal, and not arbitrary, would be supported in those policies.

In-Camera - In chambers; in private. A cause is said to be heard (in camera) either when the hearing is had before the judge in his private room or when all spectators are excluded from the courtoom. This process can be used when you want, and the judge agrees to review records to see if they should be released. This gains legal sanction for the release of records, laying the authority for release to the courts.

In consideration of policies to be determined for student records there are certain determinants that will be beneficial. Accuracy, confidentiality, privacy, and the treating of information with appropriate consideration and that due process is provided will assure those policies to be most workable and free from possibilities for legal entanglement. The assistance and review of the school lawyer should always be a contributing factor in the formulation of school policies.

There are a variety of sources to assist in the formulation of adequate policies to protect the rights of students in the learning

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process.

1. Broad based community involvement in policy formulation.
2. School Board lawyer.
3. Special Reports
   a. "Russell Sage Foundation Report"
   b. National Association of Secondary School Principals Report "A Legal Memorandum Sept. 1, 1971."
4. State Department of Education.
5. Skilled specialists from a variety of sources.

Student relationships can be developed in a cooperative manner between the student and all those involved in the learning situation. The guidance point of view can brighten the relationship and bring positive progress to the path of maturity to the young people in our schools. An antagonistic point of view may stimulate discussions but it can destroy the spark of inquiry, dull the sensitive search for identity, and thwart the successful conclusion to self actualization.

As we give of ourselves in education we do not become smaller but are magnified and perpetuated in the progeny of generations that we tune in, turn on, and take over a world that has need of people of understanding, ability and responsibility.

APPLICATIONS AND IMPLIMENTATION

Counselor Educators - should, if they aren't already, plan to incorporate in their programs a competency development in the legal implications of relationships with clients, the part counselors can play in the development of school policy to meet client needs, an

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understanding of basic legal vocabulary and process in working in the school setting, and the idea that a humanistic desire for the good of the client is not always a buffer against legal irritations or responsibility to answer the law. There are some basic tenets that give a modal operation of security such as: Prudent Man Principal, truth as a defense line in libel and slander, working under stated policies, understanding confidentiality and how it works, student advocate principles, getting assistance and legal direction from a lawyer before problems develop, and know the legal grounds for operation as they pertain to each state and locality. The knowledge of not making statements of diagnosis or lableing that is not in credentialed authority such as: stating is mentally ill or psychotic or giving legal advice without being licensed to practise law.

Students also need to know and understand "malicious intent" and the part it plays in "slander" and "libel." The due process machinery and involvement as it concerns students and relationships with students. Search and seizure and drug problems.

These are only a few of the considerations that could be the basis of a portion of a course or a whole course in itself.

The Local School Board is the policy making group under which the employees of a local district work and demonstrate the professional capabilities of their various disciplines. This group needs to have a broad understanding of the implication of the policies they design. Much assistance from their legal advisors and the information from people skilled in human relations and communications should be solicited. The broad based community involvement in the formulation

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of local policies will go far in the successful application and implementation of them. Less repercussions and rebellion by administrators, staff, students and patrons will be insured also.

Broad based community involvement means reaching all segments of the public involved and not just taking the responses from the same old group of patrons that rubber stamp actions or the acceptable acting members of the student body, the supportive staff members of long standing; but getting a truly representative sample so that all ideas can be brought out before final affirmative action is taken on the policy and you can have a greater degree of successful operation of that policy.

Much in-service activity needs to be given to a board of education no matter how successful or educated they might be, especially when some new area of concern has to have decisions made. Any policy made in a local school district that is made on the basis of meeting the needs of the students in that district has a built in degree of success and satisfaction and fulfillment in the efforts of the board. With that common denominator of concern, board, administration, staff, students, and patrons will reach the establishment of policies that can be utilized in the joy experience of learning that will enhance the whole field of education.

Administrators that are concerned for the young people in their districts will be open and receptive and honest in their relationships with their boards, patrons, students, and staff. No ego trips need to be made or taken. No facades or walls need to be built and when adequate policies are built and an acceptance of young people, not their actions or symptoms, but the acceptance of the person themselves, then work can be done in the educational

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process and negative and deviate behavior can be dealt with and a positive move toward self-actualization and social fulfillment can take place.

Teachers who let their students know they are important to them and that they care for them as persons can develop relationships that will open the doors of exploration and learning that is most desirable and rewarding to both teacher and student. When we find teachers violating confidences, putting students down with cynical treatment and sarcasm, then relationships deteriorate and discipline is lost and the relationship is one of control and very little positive action takes place. When teachers actually become student centered rather than subject centered, student relationships are opened and produce a condition where something can happen. There is an innate desire to learn but the deterrents that develop are many times unnecessary or no one has really tried to alter them in the acceptable way. The acceptable way is determined by setting, relationship, skill and determination. It isn't the program so much as it is the environment, motivation, love, and understanding of what is an expected outcome and the mode of getting from here to there. We still have not departed from the old grooves that have become ruts too high to get out of. We talk of money, deterioration of people, program approach, and one-hundred-and-one negative reasons we cannot do things but in every area and every district someone has established relationships with students and things are happening. An atmosphere of questioning and the ability to question is a most important relationship between teacher and student. How many times do questions go unasked or unanswered? No one really knows. Popularity is not necessarily a measure of

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positive relationships with students. Respect acceptance, ability to communicate, both as a receiver as well as a sender, is essential to a learning, developmental relationship with students. If a positive ethical relationship with students is maintained, legal relationships will not be a threat but a concept of student advocacy.

Counselors and other support personnel have had special training in communication skills and human growth and development, as well as human relations; therefore they should be most knowledgeable and practical in ethical and legal relationships. This is not always the case. The deterioration of the role, use, and trust of such people has been noticed across the land. Criticism has been leveled at these people that are not performing their jobs the way they should. These people need to take personal stands in implementing their roles as based on their professional training and the expectations of the public with whom they are working. Steps need to be taken such as that taken by the State of Kansas in the accrediting of secondary schools insuring the performance of counselors to deliver guidance services to the students with stated goals, objectives and outcomes for the students in those programs. This kind of support assists the support personnel to be professional and do the work they were trained to do. When this takes place we will then see a relationship between students and counselors that will be beneficial and conducive to personal development and fulfillment for both the client and the practitioner.

Parents fall into at least three groups as far as relationships with schools and staff are concerned. One is the militant and forceful, pushing for information, action, and accountability. Another is the group that fears school and the "educated" person and never

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shows up at school. The third group are those who usually have an achieving child and are very supportive of the district, administration and staff. I suppose you could add a fourth group--the chronic griper who is never satisfied. To neglect establishing relationships with any of these groups is to negate for the most part the establishment of relationships with their children and surely to have valid communication hindered. A knowledge of the family conditions, relationships, and background will be very beneficial in establishing and maintaining relationships with the children in the school setting. There are social problems that cause breakdowns of the family and symptomatic behaviors that hinder establishing relationships with students that will not be described in this paper but need to be understood and skills developed to work with them for to do less is to ignore a real need of students and an operation of success for the person working with them.

Students are our product. It is important to know them and to know about them. To establish meaningful relationships with them is what it is all about. Acceptance, valuing, value clarification, morals, self-identity, and a mutual trust between two people or a person and a group is the kind of a relationship that goes beyond ethical and legal requirements. It is a "reality relationship" of sincerity and fulfillment that fills emptiness, lights darkened places of the soul, relieves the heavy load of guilt and confusion, and gives direction, stimulation, and reason to the person and his relation to human existence.

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For a person to be able to establish quality relationships he must be a real person of honesty, substance, spiritual depth and have the capability to give of himself without claim on another person's dignity or strength. When a reciprocal condition is manifested with the other person or persons you have a relationship that promotes understanding, change, enrichment, fulfillment and all the other adjectives that mean I care, you care and the establishment of the deepest meaning of the word "friend."

CONCLUSION

The implications of student relationships are many and varied. The ethical and legal ramifications are many. Dr. Roy Menninger once said, "The single identifiable trait of juvenile delinquents is the lack of a meaningful relationship with an adult of meaning."

The establishment and continuity of humanistic relations would supercede all other considerations. Students and all the people with whom they come in contact will have some relationships, both negative and positive. Both kinds of relationships will have outcomes. Do we in education really concern ourselves enough with positive relationship building? A lost or negative relationship with students could affect not only the student, but society as a whole. Let us be concerned and be active in learning and putting into practice positive, humanistic, ethical, and legal relationships with the students whom we contact.

It is hoped that some of the ideas and concerns expressed here might generate a search for answers by others and a more clear cut mode of operation in working with and for young people across our land. All legal definitions came from "Black's Law Dictionary"

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and any information generated in legal determination, see a lawyer.

We do not need to fear the law for it has been the source of an orderly society for many years. We may doubt it, challenge it, and even change it, but without it confusion and anarchy in every facet of society would exist.

A society without relationships with fellow human beings would be very drab. Let every person touch others with the healing touch of love and acceptance. We pass this way only once--make the trip a contribution to human dignity and spiritual fulfillment.

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SUMMARY STATEMENTS

Student relationships are human relationships.

In absence of significant positive relationship, a deteriation of values, self, and worth develops.

Legal relationships, while needed, are not a substitute for warm humanistic relationship.

Many fears are born in lack of understanding and ability to communicate.

People want to learn, and learning can foster relationships.

All relationships can be either strengthened or weakened.

A relationship can be smothering, restrictive and destructive.

A learner-helper relationship should be mutual.

I care - you care, a beneficial relationship to foster a trust relationship.

Integrity a relationship foundation.

A realistic evaluation of self can break down needless defensive mechanisms and improve relationships with others.

You can accept a person without accepting his values or actions.

Your values and morals if practiced will be seen and will not have to be verbalized or impressed on others.

If you don't stand for something, you will stand for anything.

Respect is popularity refined by stress and maintenance of dignity and maturity.

Discipline is more than control.

Openness is not permissiveness.

Communication is a sender, receiver; reaction, clarification, return, until understanding is developed.

Everyone learns, some slower and by different means and the evaluation of the learning experience may not be complete for a great period of time.

Authority is either delegated or attained; a relationship is made, maintained, or maimed.

GH/E/fa/ac

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Relevant Court Cases

In the area of student relations, either ethical or legal, the following cases are significant but not all inclusive. The first three are "land mark" decisions and the full range of impact has not been felt, especially the case "In Re Gault." The sentence or two about each case is only identification as to category. The full emphasis and clarity can be realized by discussing those of interest with the assistance of a lawyer.

In re. Gault, 387, U.S. 1, 87 S. Ct. 1428, 18L. Ed., 2d, 527 (1967)

A long decision and a far reaching opinion. Basically recognition of minor children's rights, due process, and all the protection under the Constitution.

Brown vs. Board of Education, 347, U.S. 483; Supp. O.P. 349, U.S. 294 (1954)

Significant decision on civil rights and the desegregation of white schools.

Tinker vs. Community School District, U.S.S.C., No. 21, October Term (1968)

Right of expression and free speech and demonstrated 14th amendment, freedom of expression and association. Children wore black arm bands in protest of war. Right upheld and far reaching implications by their decision.

Madera vs. Board of Education, City of N.Y., No. 502, Docket 31346, 2d (1967)

Right of student to be represented by legal counsel at a guidance conference. Possible suspension for disciplinary reasons.

Van Allen vs. McCleary, 211 N.Y.S. 2d., 501 (1961)

Parent inspection of records affirmed.

Johnson vs. Board of Education, City of N.Y., 220 N.Y.S. 2d, 362 (1961)

Parent entitled to information contained in school records under proper safeguard.

Marqusano vs. Board of Education, 191 N.Y.S. 2d, 713 (1959)

Father divorced, seeking address of children awarded to spouse - denied.

Marmo vs. Board of Education, City of N.Y., 289 N.Y.S. 2d 51 (1968)

Inspection of records needed to build defense in a court case - allowed.

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State vs. Stein, 456 P. 2d, Kansas, (1969)

Search and seizure - School locker, principal was empowered to search Miranda warning not necessary.

Werfel vs. Fitzgerald, 260 N.Y.S. 2d, 791 (1963)

Defense of a person accused of a crime requires access to public records or even to records sealed from general examination, the right of inspection has a greater sanction and must be enforced.

Einhorn et. al. vs. Maus et. al., 300 F. Supp. 1969 (1969)

School officials have the right, and we think, a duty to record and to communicate true factual information about their students to institutions of higher learning, for the purpose of giving to the latter an accurate and complete picture of applicants for admission.

Elder vs. Anderson, 23 Cal. Rptr. 48 (1962)

A student could recover damages if a school improperly, and in violation of statutory directive, released information about him.

People vs. Russell, 29 Cal. Rptr. 562 (1963)

Reasonable basis for college authorities to restrict public circulation of school records.

Board of Trustees of Calaveras Unified School District vs. Leach, Rptr. 588 (1968)

Personnel records are not public, even to personnel themselves.

Wagner vs. Redmond, 127 So. 2d 275 (1960)

Board member could compel a Superintendent to give him names and addresses of pupils enrolled in certain schools.

King vs. Ambellan, 173 N.Y.S. 2d, 98 (1958)

Member Board of Education compelled Superintendent to make available for inspection certain school records and papers pertaining to students.

Creel vs. Brennan et. al. (The Bates College Case) Civ. action 3572, Superior Court, Androscoggin County, Main (1968)

Bates College was compelled to reveal to a rejected applicant the "confidential" contents of his application for admission for use as evidence in a law suit.

Valentine vs. Independent School District, 183 N.W. 434, Iowa (1921)

Court ordered the school to issue a diploma and transcript of grades to a student even though he broke the rule requiring the wearing of a cap and gown.

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Iverson vs. Frandsen, 237 F. 2d, 898 (CA10) Utah (1956)

A psychologist of a hospital wrote a report and filed it with school. Called a girl a "high grade moron". Court ruled the report was a professional one by public servant, its content his best judgement of the situation.

Basket vs. Crossfield, 228 S.W. 673, Kentucky (1920)

A male student charged with indecent exposure. University authorities communicated this fact to parents. Court determined no liability attached.

Stewart et. al. vs. Phillips et. al., Civil action No. 70.119-F (D.C. Mass.)

Testing and placement of children on a single I.Q. test.

Pyle vs. Blews, Dade Co. Fla. US Dist. Ct. S. Fla. (1971)

Principal of school reimburses the student plaintiff compensatory damages and costs in lack of "due process."

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